REMARKS

With entry of this amendment, claims 33 and 56-88 are pending in this application, claim 33 of which stands rejected, and claims 56-88 have been newly added. Claims 34-55 have been cancelled from this application, thereby rendering the rejections of these claims moot.

Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-35 U.S.C. §102

Claim 33 stands rejected under 35 U.S.C. §102 as being anticipated by either U.S. Patent No. 5,830,217 ("Ryan"), 5,603,698 ("Roberts"), or 6,071,300 ("Brenneman et al."). In making the following comments, Applicant does not acquiesce that Ryan or Brenneman et al. are in fact §102(e) prior art, and reserves the right to swear behind these references should it become necessary. Notwithstanding this, Applicant respectfully traverses the rejection of claim 33, since none of Ryan, Roberts, or Brenneman et al, discloses each and every element recited in this claim, as amended.

Specifically, independent claim 33, as amended, requires the occlusion device to be releasably deployable and the distal tip to form the extremity of the tubular body. In contrast, the shell 12/15 of the Ryan device does not form the extremity of the catheter 3, as required by claim 33. Rather, as illustrated in the drawings, there is a portion of the catheter 3 that is disposed distal to the shell 12/15. Similarly, the tip 26 of the Roberts device does not form the extremity of the catheter 4. Rather, as illustrated in the drawings, there is a portion 8 of the catheter 4 that is disposed distal to the tip 26. To the extent that the balloon 42/foam pad element 74 of the Brenneman device can be considered an occlusion element, they cannot be releasably deployed, as required by claim 33.

For at least this reason, Applicant submits that claim 33 is not anticipated by Ryan, Roberts, or Brenneman et al., and as such, respectfully requests that the §102 rejections of this claim be withdrawn.

New Claims

Applicant submits that claims 56-88, which have been newly added, are supported by the specification, as originally filed, and are patentable over the cited prior art. In particular, claims 56-67 depend from claim 33, and are thus, patentable over the cited prior art for the same reasons stated above. Claims 68-79 (with claim 68 being the independent claim) require the distal tip to be configured to remain disposed on the distal portion of the tubular body during the entire bioabsorption or dissolution process. In contrast, the shell 12/15 of the Ryan device detaches from the catheter 3 during the dissolution process. The tip 26 of the Roberts device likewise detaches from the catheter 4 during the dissolution process. In a similar manner, the tip element 140 of the Brenneman device detaches from the catheter distal end 34 during the dissolution process. Claims 80-88 (with claim 80 being the independent claim) require the distal tip to be configured to either bioabsorb or dissolve to a smaller profile, whereby the occlusion device may proximally pass through the distal opening of the deployed occlusion device when the tubular body is displaced in the proximal direction. In contrast, the shell 12/15 of the Ryan device, the tip 26 of the Roberts device, and the tip element 140 of the Brenneman device detaches from the respective catheters, and thus are not configured to proximally pass through the distal opening of any deployed occlusion device when the catheters are displaced in the proximal direction.

Conclusion

Based on the foregoing, all claims pending in the application are believed to be allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (714) 830-0600.

Respectfully submitted,

Bingham McCutchen LLP

Dated: January 30, 2004

By: _____
Michael J. Bolan
Reg. No. 42,339

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, California 94111